

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MELISSA LAUREN ROBERTS
TX-1336190-R

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DOCKETED COMPLAINT NO.
08-095

AGREED FINAL ORDER

On this the 27th day of JUNE, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Melissa Lauren Roberts (Respondent).

In order to conclude this matter, Melissa Lauren Roberts does not admit and denies the truth of the adverse Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Melissa Lauren Roberts is a Texas state certified residential real estate appraiser, holds certification number TX-1336190-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about January 1st, 2008, Respondent appraised real property located at 7025 Corona Drive, North Richland Hills, Texas ("the property").
3. On or about February 1st, 2008, the Complainant, Kyle Oesterle, an employee of Washing Mutual's Appraisal Quality Assurance department, filed a complaint with the Board. The complaint alleged that Respondent had produced a real estate appraisal report with for the property that was deficient in its reporting and analysis of certain information.
4. On or about February 1st, 2008 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent is alleged to have violated TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property.
 - a) Respondent is alleged to have communicated a misleading appraisal report for the property;

- b) Respondent is alleged to have failed to maintain appropriate work files in accordance with the record keeping provisions of USPAP's Ethics Rule;
- c) Respondent is alleged to have failed to identify and report the site description adequately;
- d) Respondent is alleged to have failed to identify and report the improvements description adequately;
- e) Respondent is alleged to have failed to identify and analyze the effect on use and value of existing economic supply and demand and market area trends;
- f) Respondent is alleged to have not provided a summary of her reasoning behind her highest and best use determination for the properties being appraised;
- g) Respondent is alleged to have used inappropriate methods or techniques in her cost approach analysis, including failing to provide any support for her site value, cost new of improvements, or depreciations conclusions in either her report or work file. Additionally her cost of improvements was significantly higher than industry recognized cost data sources and publications such as Marshall and Swift;
- h) Respondent is alleged to have failed to analyze and reconcile sales comparison data properly, failed to select appropriate comparable sales that were available in the immediate neighborhood, did not report and make appropriate adjustments for things such as seller concessions, quality of construction, condition, the property's close proximity to commercial property and IH-680, view and age, and generally used improper methods and techniques;
- i) Respondent is alleged to have failed to disclose and analyze a prior sale of the property;
- j) Respondent is alleged to have in her reports for the properties contained substantial errors of commission or omission with respect to the sales comparison approach, cost approach; and sales history analysis as noted above.
- k) The issues and facts alleged relate to bona fide disputes and controversies as to both the facts and violations, if any, of the applicable sections of the Texas Occupations Code identified herein.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent is alleged to have violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule, and USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(iii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-5(b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).

3. Respondent is alleged to have violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omissions of material facts.

4. Pursuant to APA §2001.056, the Board is authorized to dispose of this matter by agreed settlement.

Based on the above findings of fact and conclusions of law, the Respondent agrees and the Board **ORDERS** that the Respondent shall:

- a. Pay to the Board an administrative penalty of \$500.00;
- b. Attend and complete, at a minimum, a 15 classroom-hour course in USPAP;
- c. Attend and complete, at a minimum, a 15 classroom-hour course in the Sales Comparison Approach;
- d. Attend and complete, at a minimum, a 15 classroom-hour course in report writing;
- e. Attend and complete, at a minimum, a 15 classroom-hour course in the Cost Approach and,
- f. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWENTY-FOUR MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

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Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.


Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.


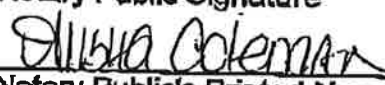
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

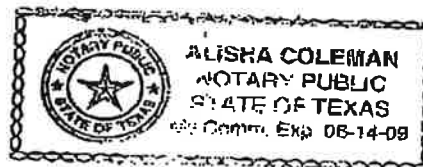
Signed this 24 day of June, 2008.


MELISSA LAUREN ROBERTS



ACE PICKENS, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 24 day of June, 2008, by MELISSA LAUREN ROBERTS, to certify which, witness my hand and official seal.


Notary Public Signature

Notary Public's Printed Name



Signed by the Commissioner this 25th day of June, 2008.



Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2008.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board